

Markham Declaration Exhibit A Page 1

AMERICAN ARBITRATION ASSOCIATION

JAMES W. BRANNAN, as the Personal
Representative of the Estate of
Robert Indiana,

Claimant,

- against - Case No. 01-19-0001-9789

MICHAEL MCKENZIE and AMERICAN IMAGE
ART,

Respondents.

REMOTE DEPOSITION
OF
OSVALDO (OZZIE) GONZALEZ

Reported by: Robin LaFemina, RPR, CLR
Job No.: 686215

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1/22/21

10:26 a.m.

Deposition of OSVALDO (OZZIE) GONZALEZ,
held remotely via Zoom, before Robin
LaFemina, a Registered Professional
Reporter, Certified LiveNote Reporter and
Notary Public within and for the State of
New York.

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2 APPEARANCES:

3

4 (ALL COUNSEL APPEARING REMOTELY)

5

6 VENABLE LLP

7 Attorneys for James W. Brannan As

8 Personal Representative of the Estate

9 Of Robert Indiana

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12 BY: EMILY SEIDERMAN WEST, ESQ.

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21 (Continued on following page.)

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2 APPEARANCES (C'td.)

3

4 MARKHAM & READ

5 Attorneys for Michael McKenzie d/b/a

6 American Image Art s/h/a Michael McKenzie

7 and American Image Art and Witness Ozzie

8 Gonzalez

9 One Commercial Wharf West

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11 BY: BRIDGET ZERNER, ESQ.

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13 JOHN MARKHAM, ESQ.

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15

16 ALSO PRESENT:

17 MICHAEL MCKENZIE

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1 Gonzalez

2 MS. WEST: Ms. Zerner, just so
3 you're aware, I'll be conducting this
4 examination and we're going to proceed
5 as if the Federal Rules of Civil
6 Procedure that are applicable to
7 depositions apply. So that's just for
8 your information. And if you and
9 Mr. Gonzalez are ready to begin, we'll
10 begin.

11 MS. ZERNER: We are. Thank you.

12 MS. WEST: All right. Thanks.

13 OSVALDO (OZZIE) GONZALEZ,
14 called as a Witness, having been first
15 duly sworn by a Notary Public, was
16 examined and testified as follows:

17 EXAMINATION BY

18 MS. WEST:

19 Q. Good morning, Mr. Gonzalez.

20 A. Good morning.

21 Q. Could you please state and spell
22 your name for the record?

23 A. Yes. My name is Ozzie,

24 O-Z-Z-I-E, Gonzalez, G-O-N-Z-A-L-E-Z.

25 Q. And is Ozzie Gonzalez your full

1 Gonzalez

2 name?

3 A. Well, it's Osvaldo Gonzalez.

4 Q. Okay. It's important that the
5 record is clear, so could you please spell
6 your full first name as well?

7 A. O-S-V-A-L-D-O.

8 Q. Thank you.

9 Mr. Gonzalez, have you ever been
10 deposed before?

11 A. Yes.

12 Q. How many times have you been
13 deposed?

14 A. I think once before.

15 Q. How long ago was that?

16 A. Years and years ago now.

17 Q. Can you give a rough estimate as
18 to how many years ago?

19 A. I think it was 30 or 40 years
20 ago.

21 Q. Do you remember what kind of
22 case that was for?

23 A. It was a car accident case.

24 Q. And were you a witness or a
25 party?

1 Gonzalez

2 Okay?

3 A. You'll be the first to know.

4 Q. Are you represented by counsel
5 today?

6 A. I don't think so. Well,
7 unless -- well, we have John Markham.

8 Q. Is John Markham --

9 MS. ZERNER: Yes.

10 MS. WEST: Okay.

11 MS. ZERNER: I represent --

12 A. American --

13 MS. ZERNER: -- Mr. Gonzalez as
14 well.

15 Q. So is it my understanding,
16 Mr. Gonzalez, that the law firm of Markham &
17 Read represents you for purposes of this
18 testimony today?

19 A. Yes.

20 Q. Okay.

21 Can you identify your attorneys
22 for the record?

23 A. John Markham, and I see that
24 Bridget is online with us.

25 MR. MARKHAM: So is John Markham.

1 Gonzalez

2 MS. WEST: Hello, Mr. Markham,
3 this is Emily Seiderman West from
4 Venable. I see that you've joined.
5 Thanks.

6 Q. Okay.

7 And when did you retain
8 Mr. Markham and Ms. Zerner as your attorney?

9 A. I'm not actually sure. Six
10 months ago. Five or six months ago.

11 Q. So you retained them for a
12 purpose other than for preparing for this
13 testimony today?

14 A. Well, he's the attorney
15 representing American Image Art and Michael
16 McKenzie in their legal actions in Maine and
17 the Southern District of New York.

18 Q. I understand that. I'm just
19 trying to understand when Mr. Markham and
20 Ms. Zerner became your attorney.

21 A. Well, I -- only to the extent
22 that I work at American Image Art.

23 MR. MARKHAM: We are
24 representing him since we filed an
25 appearance in Maine which I believe was

1 Gonzalez

2 in July of 2020.

3 MS. WEST: Yes. But that
4 appearance was for Michael McKenzie;
5 correct?

6 MR. MARKHAM: I didn't say that
7 we appeared for Mr. Oz, I said that
8 we've been representing Mr. Oz since
9 then.

10 MS. WEST: Since -- okay. So,
11 Mr. Markham, you're referring to when
12 you appeared in Maine in 2020, you said?

13 MR. MARKHAM: Yes.

14 MS. WEST: Okay.

15 Q. Mr. Gonzalez, I'm interested in
16 what you -- what your understanding is. Is
17 it your understanding that Mr. Markham has
18 been representing you since about six months
19 ago?

20 A. Yes.

21 Q. And that is in the course of --
22 that is related to this dispute; correct?
23 The dispute that we're here to talk about
24 today?

25 A. Yes.

1 Gonzalez

2 Q. Does Mr. Markham or Ms. Zerner
3 represent you in any other capacity?

4 A. No.

5 Q. Okay.

6 Do you understand that you are
7 here today to give testimony for an
8 arbitration between Michael McKenzie who is
9 doing business as American Image Art and
10 James Brannan who represents the Estate of
11 Robert Indiana?

12 A. Yes.

13 Q. Okay.

14 So without telling me the
15 substance of any discussions that you had
16 with your attorney to prepare for this
17 deposition, could you please just tell me
18 yes or no, did you meet with your attorneys
19 to prepare for today?

20 A. No.

21 Q. Did you review any documents to
22 prepare for your deposition today?

23 A. Well, a few moments ago,
24 apparently the --

25 MS. ZERNER: Did it freeze on